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Ramesh Keshavaraj

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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/066,738
Filing Date: February 04, 2002
Appellant(s): KESHAVARAJ, RAMESH

Mr. James Robertson
For Appellant

EXAMINER'S ANSWER

MAILED
JUL 03 2007
GROUP 1700

This is in response to the appeal brief filed 11/07/06 appealing from the Office action mailed 10/07/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection on the 102(e) rejection over US PUB 2002/0065367 A1 issued to Parker is correct.

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because the examiner has withdrawn them. The 102/103 rejections made over USPN 5,470,106 issued to Nishimura et al. is withdrawn.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

A1 Parker 2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 6-9, 11, 12,18-21, 25, 28, 29, 32, 33, 36, 37 and 40-41are rejected under 35 U.S.C. 102(e) as being anticipated by Parker US 2002/0065367 A1.

Parker teaches a new adhesive coating that is used in airbag fabrics (abstract). His inventive coating may be used on any fabric substrate and maybe a siloxane, acetate or acrylate based (page 1, paragraph [0007]), thereby meeting the limitations of a fabric that is coated or laminated with a coating or a film selected from the group consisting of polyurethanes, polyacrylates, polyamides, polyesters or copolymers thereof. For the basic fabric structure, Parker employs a woven plain weave fabric, formed from polyester or polyamide yarns having a denier of about 210 to 630 denier (page 2, first column paragraph [0011]. In Example 1 the patentee teaches a coated 420 D nylon which has a dry coating weight of 1.0 ounces per square yard. The composite as a whole yields an air permeability of 0 cfm at 124 Pa (paragraph [0018]). It should be noted that cover factor although not specifically disclosed must be inherent to the article. The Examiner takes this position because the property limitations are met by being a woven coated fabric having the exact denier range, exact chemistry and structure and most of all exhibiting the same or lack of permeability, therefore it would be inherent that the cover factor of the fabric is also with Applicant's claimed range of below 1600.

(10) Response to Argument

With regard to the first discussion under A. on pages 5-7 of the brief, Appellant traverses that the 102 (e) rejection made over US 2002/0065367 A1 issued to Parker does not anticipate Claims 1, 2, 6-9, 11, 12,18-21, 25, 28, 29, 32, 33, 36, 37 and 40-41. Appellant

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argues that each of the independent claims specifically teach a woven fabric structure having a cover factor below about 1600, and as best understood by Appellant, Parker does not in any way expressly or inherently describe cover factor in their reference, and that the Examiner has not pointed to any teachings within the cited reference that are adequate to support the notion that the criteria used in the fabric of the reference are those that are the same of Appellant.

To this the Examiner rebuts that, cover factor is a measure of fabric density and can be calculated (determined) in many ways, regardless of what route is taken, cover factor is a resultant property in which key variables like weave structure, denier of the yarns, structure (thickness) of the yarns (flat or round) and the filaments that comprise the fibers or yarns must be known. Therefore, if all of these variables are the same, then the cover factor must be exactly or about Appellants claimed range of below 1600.

Additionally, although not claimed by Appellant, the Examiner would like to point out both Parker and Appellant chemically use the same fibers –polyamides and polyesters; the same physical dimensions-Appellant desires 100-630 denier, and the Parker reference teaches 100-420 denier; both require that the weave be woven and then further desire the same type of woven weave being a piling or twill; and lastly, both airbag fabric are chemically coated with the same type of coating which is structurally equivalent. But the most pertinent feature upon which the Examiner is relying upon is that the resultant property of air permeability is also met and is tested against the same standards to achieve the same or minuscule off, or close to no permeability. Looked at another way, if all the components were NOT the same, then the resultant properties would be different. Therefore, it is the Examiners conclusion that if it walks like a duck, quacks like a duck, then it must be a duck-the same analogy can be used with the discussion of Parker.

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With regard to Appellant discussion on the last portion of section A, where Appellant states that the standard that the Examiner has used is in no way satisfied by the limited extrinsic evidence regarding Parker. To this the Examiner rebuts that this notion is pure speculation and Appellant themselves have not demonstrated how the same variables would produce a cover factor in excess of 1600. The Examiner has however, shown that the same variables are used and has shown them comparatively, and has thus met her burden in establishing a proper anticipatory rejection over Parker.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



/Arti Singh/
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